

103^D CONGRESS
1ST SESSION

H. R. 965

AMENDMENT

In the Senate of the United States,

November 20 (legislative day, November 2), 1993.

Resolved, That the bill from the House of Representatives (H.R. 965) entitled “An Act to provide for toy safety and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Child Safety Protection*
3 *Act”.*

4 ***TITLE I—TOY LABELING REQUIREMENTS***

5 ***SEC. 101. REQUIREMENTS FOR LABELING CERTAIN TOYS***
6 ***AND GAMES.***

7 *(a) REQUIREMENT UNDER FEDERAL HAZARDOUS*
8 *SUBSTANCES ACT.—The Federal Hazardous Substances Act*
9 *(15 U.S.C. 1261 et seq.) is amended by adding at the end*
10 *the following new section:*

11 ***“SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS***
12 ***AND GAMES.***

13 *“(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT*
14 *LEAST 3.—*

15 *“(1) REQUIREMENT.—The packaging of any toy*
16 *or game intended for use by children who are at least*

1 *3 years old but not older than 6 years (or such other*
2 *upper age limit as the Commission may determine,*
3 *which may not be less than 5 years old), any descrip-*
4 *tive material which accompanies such toy or game,*
5 *and, in the case of bulk sales of such toy or game*
6 *when unpackaged, any bin, container for retail dis-*
7 *play, or vending machine from which the unpackaged*
8 *toy or game is dispensed shall bear or contain the*
9 *cautionary statement described in paragraph (2) if*
10 *the toy or game—*

11 *“(A) is manufactured for sale, offered for*
12 *sale, or distributed in commerce in the United*
13 *States, and*

14 *“(B) includes a small part, as defined by*
15 *the Commission.*

16 *“(2) LABEL.—The cautionary statement required*
17 *by paragraph (1) for a toy or game shall be as fol-*
18 *lows:*

WARNING:

CHOKING HAZARD—Small parts.
Not for children under 3 yrs.

19 *“(b) BALLOONS, SMALL BALLS, AND MARBLES.—*

1 “(1) *REQUIREMENT.*—In the case of any latex
2 balloon, any ball with a diameter of 1.75 inches or
3 less intended for children 3 years of age or older, any
4 marble intended for children 3 years of age or older,
5 or any toy or game which contains such a balloon,
6 ball, or marble, which is manufactured for sale, of-
7 fered for sale, or distributed in commerce in the Unit-
8 ed States—

9 “(A) the packaging of such balloon, ball,
10 marble, toy, or game,

11 “(B) any descriptive material which accom-
12 panies such balloon, ball, marble, toy, or game,
13 and

14 “(C) in the case of bulk sales of any such
15 product when unpackaged, any bin, container for
16 retail display, or vending machine from which
17 such unpackaged balloon, ball, marble, toy, or
18 game is dispensed,

19 shall bear or contain the cautionary statement de-
20 scribed in paragraph (2).

21 “(2) *LABEL.*—The cautionary statement required
22 under paragraph (1) for a balloon, ball, marble, toy,
23 or game shall be as follows:

1 “(A) *BALLOONS*.—In the case of balloons, or
 2 toys or games that contain latex balloons, the fol-
 3 lowing cautionary statement applies:

WARNING:

*CHOKING HAZARD—Children under 8 yrs can choke or suf-
 focate on uninflated or broken balloons.*

Adult supervision required.

Keep uninflated balloons from children.

Discard broken balloons at once.

4 “(B) *BALLS*.—In the case of balls, the fol-
 5 lowing cautionary statement applies:

WARNING:

CHOKING HAZARD—This toy is a small ball.

Not for children under 3 yrs.

6 “(C) *MARBLES*.—In the case of marbles, the
 7 following cautionary statement applies:

WARNING:

CHOKING HAZARD—This toy is a marble.

Not for children under 3 yrs.

8 “(D) *TOYS AND GAMES*.—In the case of toys
 9 or games containing balls, the following caution-
 10 ary statement applies:

WARNING:

CHOKING HAZARD—Toy contains a small ball.

Not for children under 3 yrs.

- 1 *In the case of toys or games containing marbles,*
2 *the following cautionary statement applies:*

WARNING:

CHOKING HAZARD—Toy contains a marble.

Not for children under 3 yrs.

- 3 “(c) *GENERAL LABELING REQUIREMENTS.*—
4 “(1) *IN GENERAL.*—Except as provided in para-
5 *graphs (2) and (3), any cautionary statement re-*
6 *quired under subsection (a) or (b) shall be—*
7 “(A) *displayed in its entirety on the prin-*
8 *cipal display panel of the product’s package, and*
9 *on any descriptive material which accompanies*
10 *the product, and, in the case of bulk sales of such*
11 *product when unpackaged, on the bin, container*
12 *for retail display of the product, and any vend-*
13 *ing machine from which the unpackaged product*
14 *is dispensed, and*
15 “(B) *displayed in the English language in*
16 *conspicuous and legible type in contrast by ty-*
17 *pography, layout, or color with other printed*
18 *matter on such package, descriptive materials,*
19 *bin, container, and vending machine, and in a*

1 *manner consistent with part 1500 of title 16,*
2 *Code of Federal Regulations (or successor regula-*
3 *tions thereto).*

4 “(2) *EXCEPTION FOR PRODUCTS MANUFACTURED*
5 *OUTSIDE UNITED STATES.—In the case of a product*
6 *manufactured outside the United States and directly*
7 *shipped from the manufacturer to the consumer by*
8 *United States mail or other delivery service, the ac-*
9 *companying material inside the package of the prod-*
10 *uct may fail to bear the required statement if other*
11 *accompanying material shipped with the product*
12 *bears such statement.*

13 “(3) *SPECIAL RULES FOR CERTAIN PACKAGES.—*
14 *(A) A cautionary statement required by subsection (a)*
15 *or (b) may, in lieu of display on the principal dis-*
16 *play panel of the product’s package, be displayed on*
17 *another panel of the package if—*

18 “(i) *the package has a principal display*
19 *panel of 15 square inches or less and the re-*
20 *quired statement is displayed in three or more*
21 *languages; and*

22 “(ii) *the statement specified in subpara-*
23 *graph (B) is displayed on the principal display*
24 *panel and is accompanied by an arrow or other*
25 *indicator pointing toward the place on the pack-*

1 age where the statement required by subsection
2 (a) or (b) appears.

3 “(B)(i) In the case of a product to which sub-
4 section (a), subsection (b)(2)(B), subsection (b)(2)(C),
5 or subsection (b)(2)(D) applies, the statement speci-
6 fied by this subparagraph is as follows:

SAFETY WARNING

7 “(ii) In the case of a product to which subsection
8 (b)(2)(A) applies, the statement specified by this sub-
9 paragraph is as follows:

WARNING—CHOKING HAZARD

10 “(d) *TREATMENT AS MISBRANDED HAZARDOUS SUB-*
11 *STANCE.—A balloon, ball, marble, toy, or game, that is not*
12 *in compliance with the requirements of this section shall*
13 *be considered a misbranded hazardous substance under sec-*
14 *tion 2(p).”.*

15 (b) *OTHER SMALL BALLS.—A small ball—*

16 (1) *intended for children under the age of 3*
17 *years of age, and*

18 (2) *with a diameter of 1.75 inches or less,*

19 *shall be considered a banned hazardous substance under sec-*
20 *tion 2(q) of the Federal Hazardous Substances Act (15*
21 *U.S.C. 1261(q)).*

1 (c) *REGULATIONS.*—*The Consumer Product Safety*
2 *Commission (hereinafter referred to as the “Commission”)*
3 *shall promulgate regulations, under section 553 of title 5,*
4 *United States Code, for the implementation of this section*
5 *and section 24 of the Federal Hazardous Substances Act*
6 *by July 1, 1994, or the date that is 6 months after the date*
7 *of enactment of this Act, whichever occurs first. Subsections*
8 *(f) through (i) of section 3 of the Federal Hazardous Sub-*
9 *stances Act (15 U.S.C. 1262) shall not apply with respect*
10 *to the issuances of regulations under this subsection.*

11 (d) *EFFECTIVE DATE; APPLICABILITY.*—*Subsections*
12 *(a) and (b) shall take effect January 1, 1995, and section*
13 *24 of the Federal Hazardous Substances Act shall apply*
14 *only to products entered into commerce on or after January*
15 *1, 1995.*

16 (e) *PREEMPTION.*—

17 (1) *IN GENERAL.*—*Subject to paragraph (2), a*
18 *State or political subdivision of a State may not es-*
19 *tablish or enforce a requirement relating to caution-*
20 *ary labeling of small parts hazards or choking*
21 *hazards in any toy, game, marble, small ball, or bal-*
22 *loon intended or suitable for use by children unless*
23 *such requirement is identical to a requirement estab-*
24 *lished by amendments made by this section to the*

1 *Federal Hazardous Substances Act or by regulations*
2 *promulgated by the Commission.*

3 (2) *EXCEPTION.*—A State or political subdivi-
4 *sion of a State may, until January 1, 1995, enforce*
5 *a requirement described in paragraph (1) if such re-*
6 *quirement was in effect on October 2, 1993.*

7 ***SEC. 102. REPORTING REQUIREMENTS.***

8 (a) *REPORTS TO CONSUMER PRODUCT SAFETY COM-*
9 *MISSION.*—

10 (1) *REQUIREMENT TO REPORT.*—Each manufac-
11 *turer, distributor, retailer, and importer of a marble,*
12 *small ball, or latex balloon, or a toy or game that*
13 *contains a marble, small ball, latex balloon, or other*
14 *small part, shall report to the Commission any infor-*
15 *mation obtained by such manufacturer, distributor,*
16 *retailer, or importer which reasonably supports the*
17 *conclusion that—*

18 (A) *an incident occurred in which a child*
19 *(regardless of age) choked on such a marble,*
20 *small ball, or latex balloon or on a marble, small*
21 *ball, latex balloon, or other small part contained*
22 *in such toy or game; and*

23 (B) *as a result of that incident the child*
24 *died, suffered serious injury, ceased breathing for*

(2) *TREATMENT UNDER CPSA.*—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

8 (3) *EFFECT ON LIABILITY.*—A report by a man-
9 ufacturer, distributor, retailer, or importer under
10 paragraph (1) shall not be interpreted, for any pur-
11 pose, as an admission of liability or of the truth of
12 the information contained in the report.

(b) *CONFIDENTIALITY PROTECTIONS.*—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

21 ***TITLE II—CHILDREN’S BICYCLE HELMET***
22 ***SAFETY***

23 ***SEC. 201. SHORT TITLE.***

24 *This title may be cited as the “Children’s Bicycle Hel-*
25 *met Safety Act of 1993”.*

1 **SEC. 202. ESTABLISHMENT OF PROGRAM.**

2 *The Administrator of the National Highway Traffic*
3 *Safety Administration may, in accordance with section*
4 *203, make grants to States and nonprofit organizations for*
5 *programs that require or encourage individuals under the*
6 *age of 16 to wear approved bicycle helmets. In making those*
7 *grants, the Administrator shall allow grantees to use wide*
8 *discretion in designing programs that effectively promote*
9 *increased bicycle helmet use.*

10 **SEC. 203. PURPOSES FOR GRANTS.**

11 *A grant made under section 202 may be used by a*
12 *grantee to—*

13 *(1) enforce a law that requires individuals under*
14 *the age of 16 to wear approved bicycle helmets on*
15 *their heads while riding on bicycles;*

16 *(2) assist individuals under the age of 16 to ac-*
17 *quire approved bicycle helmets;*

18 *(3) develop and administer a program to educate*
19 *individuals under the age of 16 and their families on*
20 *the importance of wearing such helmets in order to*
21 *improve bicycle safety; or*

22 *(4) carry out any combination of the activities*
23 *described in paragraphs (1), (2), and (3).*

1 **SEC. 204. STANDARDS.**

2 (a) *IN GENERAL.*—Bicycle helmets manufactured 9
3 months or more after the date of the enactment of this Act
4 shall conform to—

5 (1) any interim standard described under sub-
6 section (b), pending the establishment of a final
7 standard pursuant to subsection (c); and

8 (2) the final standard, once it has been estab-
9 lished under subsection (c).

10 (b) *INTERIM STANDARDS.*—The interim standards are
11 as follows:

12 (1) The American National Standards Institute
13 standard designated as “Z90.4–1984”.

14 (2) The Snell Memorial Foundation standard
15 designated as “B–90”.

16 (3) The American Society of Testing Materials
17 standard designated as “F 1447”.

18 (4) Any other standard that the Commission de-
19 termines is appropriate.

20 (c) *FINAL STANDARD.*—Not later than 60 days after
21 the date of the enactment of this Act, the Commission shall
22 begin a proceeding under section 553 of title 5, United
23 States Code, to—

24 (1) review the requirements of the interim stand-
25 ards set forth in subsection (a) and establish a final
26 standard based on such requirements;

1 (2) *include in the final standard a provision to*
2 *protect against the risk of helmets coming off the*
3 *heads of bicycle riders;*

4 (3) *include in the final standard provisions that*
5 *address the risk of injury to children; and*

6 (4) *include additional provisions as appropriate.*

7 *Sections 7, 9, and 30(d) of the Consumer Product Safety*
8 *Act (15 U.S.C. 2056, 2058, 2079(d)) shall not apply to the*
9 *proceeding under this subsection and section 11 of such Act*
10 *(15 U.S.C. 2060) shall not apply with respect to any stand-*
11 *ard issued under such proceeding. The final standard shall*
12 *take effect 1 year from the date it is issued.*

13 (d) *FAILURE TO MEET STANDARDS.—*

14 (1) *FAILURE TO MEET INTERIM STANDARD.—*
15 *Until the final standard takes effect, a bicycle helmet*
16 *that does not conform to an interim standard as re-*
17 *quired under subsection (a)(1) shall be considered in*
18 *violation of a consumer product safety standard pro-*
19 *mulgated under the Consumer Product Safety Act.*

20 (2) *STATUS OF FINAL STANDARD.—The final*
21 *standard developed under subsection (c) shall be con-*
22 *sidered a consumer product safety standard promul-*
23 *gated under the Consumer Product Safety Act.*

1 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

2 *For the National Highway Traffic Safety Administra-*
3 *tion to carry out the grant program authorized by this title,*
4 *there are authorized to be appropriated \$2,000,000 for fiscal*
5 *year 1994, \$3,000,000 for fiscal year 1995, and \$4,000,000*
6 *for fiscal year 1996.*

7 **SEC. 206. DEFINITION.**

8 *In this title, the term “approved bicycle helmet” means*
9 *a bicycle helmet that meets—*

10 *(1) any interim standard described in section*
11 *204(b), pending establishment of a final standard*
12 *under section 204(c); and*

13 *(2) the final standard, once it is established*
14 *under section 204(c).*

15 **TITLE III—BUCKET DROWNING**
16 **PREVENTION**

17 **SEC. 301. LABELING STANDARD REQUIREMENTS.**

18 *On October 1, 1994, or 240 days after the date of the*
19 *enactment of this title, whichever first occurs, there is estab-*
20 *lished and effective a consumer product safety standard*
21 *under section 9 of the Consumer Product Safety Act (15*
22 *U.S.C. 2058), to eliminate or reduce the risk of injury or*
23 *death resulting from infants falling into 4-gallon to 6-gallon*
24 *buckets containing liquid. Such standard, when established,*
25 *shall require straight sided or slightly tapered, open head*
26 *containers with a capacity of more than 4 gallons and less*

1 *than 6 gallons (referred to in this title as a “bucket”), to*
2 *bear one warning label in English and Spanish. The label*
3 *shall meet the following requirements:*

4 (1) *The label shall be permanent so that such*
5 *label cannot be removed, torn or defaced without the*
6 *aid of tools or solvents.*

7 (2) *The label shall be at least 7 inches in height,*
8 *and 3½ inches in width, or any larger size as the la-*
9 *beler may choose.*

10 (3) *The label shall be centered on one side of the*
11 *bucket just below the point where the handle is in-*
12 *serted.*

13 (4) *The label shall have a border or other form*
14 *of contrast around its edges to delineate it from any*
15 *other information on the bucket.*

16 (5) *The label shall bear (A) the signal word*
17 *“WARNING” in both English and Spanish, in bold*
18 *uppercase lettering, and (B) in upper and lower case*
19 *lettering the words “Children Can Fall Into Bucket*
20 *and Drown. Keep Children Away From Buckets With*
21 *Even a Small Amount of Liquid.”, with an equiva-*
22 *lent Spanish translation in at least the same type size*
23 *as English. The signal word panel shall be preceded*
24 *by a safety alert symbol consisting of an exclamation*
25 *mark in a triangle.*

1 (6) *The label shall be clear and conspicuous and*
2 *in contrasting colors.*

3 (7) *The label shall include a picture of a child*
4 *falling into a bucket containing liquid. An encircled*
5 *slash symbol shall be superimposed over, and sur-*
6 *round the pictorial. The picture shall be positioned*
7 *between the signal word panel and the message panel.*

8 **SEC. 302. CERTAIN BUCKETS NOT AFFECTED.**

9 *The standard established by section 301 applies only*
10 *to buckets manufactured or imported on or after the effective*
11 *date of such standard, and buckets manufactured or im-*
12 *ported before such effective date may be sold without the*
13 *warning label required by section 301 even though such*
14 *sales occur after that date. The Consumer Product Safety*
15 *Commission, by rule, shall prohibit a manufacturer, filler,*
16 *distributor, and retailer from stockpiling buckets to which*
17 *consumer product safety standards established by section*
18 *301 of this title would have applied but for the preceding*
19 *sentence. For purposes of this section, the term “stock-*
20 *piling” shall have the same meaning as that provided by*
21 *section 9(g)(2) of the Consumer Product Safety Act.*

22 **SEC. 303. PROHIBITED ACTS.**

23 (a) *REMOVAL OF LABEL.*—*Once placed on a plastic*
24 *bucket pursuant to the standard provided by section 301,*
25 *it shall be a prohibited act under section 19 of the Consumer*

1 *Product Safety Act for any person in the chain of distribu-*
2 *tion of the bucket to intentionally cover, obstruct, tear, de-*
3 *face or remove the label.*

4 (b) *CONSUMER PRODUCT SAFETY STANDARD.—The*
5 *standard established by section 301 of this title shall be con-*
6 *sidered a consumer product safety standard established*
7 *under the Consumer Product Safety Act.*

8 ***SEC. 304. EXISTING LABELS.***

9 *Notwithstanding section 301, any bucket label in use*
10 *on September 1, 1993, may, if such label is substantially*
11 *in conformance with the requirements of paragraphs (3),*
12 *(4), (5), and (6) of section 301, continue to be placed on*
13 *buckets until 12 months after the date of the enactment of*
14 *this title. Notwithstanding the preceding sentence, buckets*
15 *subject to the provisions of this section must bear both an*
16 *English and Spanish language label on and after the effec-*
17 *tive date of the standard established by section 301.*

18 ***SEC. 305. AMENDMENTS.***

19 *Section 553 of title 5, United States Code, shall apply*
20 *with respect to the Consumer Product Safety Commission's*
21 *issuance of any amendments or changes to the bucket label-*
22 *ing standard established by section 301 of this title. Sections*
23 *7 and 9 of the Consumer Product Safety Act shall not apply*
24 *to such amendments or changes.*

1 **SEC. 306. RESPONSIBILITY FOR LABELING.**

2 (a) *LABELING.*—The standard established by section
3 301 requires the labeling of buckets covered by such stand-
4 ard to be the responsibility of the manufacturer of any such
5 buckets, unless otherwise specified by contract between the
6 manufacturer, and either the filler, distributor, or retailer
7 of such buckets. Under no circumstances shall any such
8 bucket enter the stream of commerce without such label.

9 (b) *TIME FOR PLACING LABELS.*—The required label
10 must be on the bucket at the time it is sold or delivered
11 to the end user of the bucket or its contents or, in the case
12 of a bucket intended to be sold to the public in an empty
13 state, at the time it is shipped to a retailer for sale to the
14 public.

15 **SEC. 307. PERFORMANCE STANDARD.**

16 (a) *PERFORMANCE STANDARD.*—Within 30 days fol-
17 lowing the date of enactment of this title, the Consumer
18 Product Safety Commission shall commence a proceeding
19 under the Consumer Product Safety Act for the issuance
20 of a performance standard for buckets to address the drown-
21 ing hazard associated with this product. Such standard
22 shall take effect at such time as may be prescribed by the
23 Consumer Product Safety Commission, but in no event later
24 than 15 months following the date of the enactment of this
25 title. The Consumer Product Safety Commission shall con-
26 sider any American Society for Testing and Materials vol-

1 untary performance standard in existence prior to such
2 date of enactment.

3 (b) *LABELING REQUIREMENTS.*—The labeling require-
4 ments under section 101 shall not apply to buckets certified
5 by the Consumer Product Safety Commission as meeting
6 the performance standard in subsection (a).

7 **SEC. 308. CONSULTATION.**

8 To avoid duplicative and conflicting labeling, the
9 Consumer Product Safety Commission shall complete a con-
10 sultation with relevant Federal agencies within 30 days fol-
11 lowing the date of enactment of this Act.

12 **SEC. 309. REQUIREMENT FOR COMMISSION STUDY.**

13 (a) *STUDY.*—The Commission shall conduct a study
14 to assess the frequency of deaths and injuries arising from
15 drowning accidents in metal buckets, and the frequency and
16 type of uses of 4-gallon to 6-gallon metal containers in the
17 home, to determine whether special design and labeling
18 standards are needed for such containers. The Commission
19 shall report the results of the study to the Congress not later
20 than one year after the date of enactment of this Act.

21 (b) *EXEMPTION.*—During the pendency of such study,
22 metal containers which would otherwise be required to com-
23 ply with the labeling requirements of section 301 are exempt
24 from such requirements. Upon review of the results of the
25 study, the Commission shall decide whether to continue this

- 1 *exemption, to require compliance by metal containers, or*
- 2 *to consider further study in the future.*

Attest:

Secretary.

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